REMARKS

In the action of April 4, 2008, the examiner rejected claims 6 and 7 under 35 U.S.C. § 112, second paragraph; rejected claims 1 and 2 under 35 U.S.C § 102 over Kramer; rejected claims 1-3, 5-8, 10, 12, 13, 20 and 22 as unpatentable over Green in view of Hilscher *et al*; rejected claims 4, 9, 11, 14, 15, 16, 18 and 19 under 35 U.S.C § 103(b) as anticipated by Green in view of Valiulis; and rejected claims 17, 21 and 23 under 35 U.S.C § 103 as unpatentable over Green in view of Hilscher *et al.*

The rejection of claim 6 and 7 under 35 U.S.C. § 112 appears to be incorrect, since claim 6 depends from claim 3, which recites "a power toothbrush".

The remarks of the examiner in his last office action relative to the prior art have been carefully considered. The examiner first asserts that both Kramer and Green disclose "a personal care appliance". This appears to be an exceptionally broad interpretation of "personal care appliance", outside the boundaries as to what could be ordinarily interpreted as personal care appliances, typical examples of which are power toothbrushes, shavers, skin cleaning devices, etc. A refrigerator, for instance, or even medical diagnostic equipment simply cannot be considered a personal care appliance within the ordinary meaning of that term or as set forth in the application as examples. In order to progress on this issue, however, applicant has amended "personal care appliance" to include the term "hand-held", intending to limit the scope of the claim to power toothbrushes, shavers and other similar, truly personal care appliance items. Accordingly, the rejection of claims 1 and 2 over Kramer under 35 U.S.C. §102 is believed to be moot and should be withdrawn.

The examiner also continues to assert that periodic payments to enable continued operation of a device can be interpreted to be a "permanent use, without expiration", even though such "permanence" requires ongoing payments. The examiner further continues to assert that an initial paid use for the device is a "limited time trial use", even though it does not meet the traditional understanding of a "trial use", in which an appliance is provided for a short term use at no cost. In order to progress on this issue, applicant has amended the independent claims to indicate that the trial use of the personal care appliance is converted to a permanent use by a one-time payment/authorization, without further compensation. In his response to the arguments presented in the first amendment, the examiner appeared to recognize the significance of the above limitation, but indicated that the limitation was not specifically recited in the claims. Such a limitation is now in the claims and thus should be carefully considered.

A careful reading of Kramer or Green indicates no teaching or concept of a true "trial use" of an appliance, as that term is ordinarily understood, followed by a single payment/authorization which converts the trial use of an appliance to a permanent ownership thereof, *i.e.* a true purchase, not an ongoing rent or lease of the device. In both Kramer and Green, ownership is not transferred at any point. It is a rental/lease concept, which requires the return (or non-use) of the device once the ongoing payments are discontinued.

Hence, there is a fundamental conceptual and structural difference between the references and the invention of this application. The claims would now appear to reflect those fundamental differences, and accordingly, independent claims 1, 14, 20 and 23 are now allowable.

With respect to claim 22, note that it is the on/off switch for the device which is

operable by a user in a particular pattern which produces the desired permanent result. The switches noted by the examiner in Green are not on/off switch(es) . Hence, claim 22 is in fact patentable over Green and Hilscher *et al.*

In view of the above, allowance of the application is respectfully requested.

Respectfully submitted,

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